

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN CORRION,

Petitioner,

v.

Case No. 10-10593

Honorable David M. Lawson

MARY BERGHUIS,

Respondent.

**ORDER DENYING PETITIONER'S MOTION TO AMEND/CORRECT OV'S PRV'S
AND THE PSIR AND PETITIONER'S REQUEST FOR IMMEDIATE INJUNCTIVE
RELIEF**

The matter is before the Court on the petitioner's motion to amend/correct OV's PRV's and the PSIR and his request for immediate injunctive relief. The petitioner's motions request the ultimate relief sought — the correction of his sentence — because the state court allegedly misapplied the Michigan sentencing guidelines. A claim that the state trial court incorrectly scored, calculated, or misapplied the state legislative sentencing guidelines is not cognizable for federal habeas review because it is based solely on state law. *See McPhail v. Renico*, 412 F. Supp. 2d 647, 656 (E.D. Mich. 2006) (citing *Estelle v. McGuire*, 502 U.S. 62, 67 (1991)). Therefore, a claim that the trial court misscored offense variables in determining the state sentencing guidelines is not cognizable on habeas corpus review. *Garcia-Dorantes v. Warren*, 769 F. Supp. 2d 1092, 1112 (E.D. Mich. 2011). Because the Court cannot grant the requested relief, it must deny the petitioner's motions.

Accordingly, it is **ORDERED** that the petitioner's motion to amend/correct OV's PRV's and the PSIR [dkt. #40] and his request for immediate injunctive relief [dkt. #41] are **DENIED**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: November 10, 2011

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on November 10, 2011.

s/Deborah R. Tofil
DEBORAH R. TOFIL